

## **REMARKS**

In response to the Office Action mailed December 28, 2006, Applicants submit the following remarks. The one-month extended deadline for filing a response is February 28, 2007. Applicants submit herewith a one-month Petition for Extension of Time and the appropriate fee. Therefore, Applicants believe that this response is being timely filed. Applicants believe that the fees submitted herewith are sufficient. However, in the event that Applicants are incorrect in their assumption, please charge any necessary fee to Deposit Account No. 23-2415, referencing Docket No. 33392-712.201.

Applicants hereby elect, with traverse, Group II, Claims 9-20, drawn to a device for transdermal delivery of active agent comprising microprotrusions and dry coating. This election is with traverse, however, because both criteria for a proper requirement have not been met insofar as the consideration of Groups I-IV together would not impose an undue burden on the Examiner. Applicants respectfully note that for a restriction requirement to be proper, (i) the invention defined by the claim groups must be independent (M.P.E.P. §806.04) and distinct (M.P.E.P. §806.05); and (ii) the consideration of the groups of invention in the same application must impose a serious burden on the Examiner. See 35 U.S.C. §121 and M.P.E.P. §803. Applicants respectfully submit that there would be no serious burden if restriction among these groups were not required. Accordingly, Applicants respectfully submit that the restriction requirement among Groups I-IV is improper and should be withdrawn.

For examination purposes, Applicants elect species (a) device as claimed in claims 9-19. Applicants believe that Claims 9-20 are readable on the elected species.

### **CONCLUSION**

Applicants believe that, for the reasons explained above, all of the pending claims are in condition for examination on the merits and such action is respectfully requested. Applicants believe that this response is being timely filed. However, in the event that Applicants are incorrect in their assumption, please charge any necessary fee to Deposit Account No. 23-2415, referencing Docket No. 33392-712.201.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (858) 350-2337.

Respectfully submitted,

Date: February 28, 2007

By:

  
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